

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Jeffrey E. Jones, *dba* Dent Perfect,  
Opposer,

v.

Seth A. Byerley and Troy D. Ward Partnership, The,  
Applicant.

Opposition No.

CERTIFICATE UNDER 37 CFR 1.8(a)  
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS  
FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO  
COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE,  
ARLINGTON, VA 22202-3513

ON 6-30-04  
Jeffrey E. Jones  
REGISTRATION NO. 35064  
DATE 6-30-04

NOTICE OF OPPOSITION

Attn: Box TTAB Fee  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

ER380096723US

Madam:

In the matter of U.S. Intent-to-Use Service Mark Application No. 78/220,810, filed March 3, 2003, owned by The Seth A. Byerley and Troy D. Ward Partnership (Applicant), a partnership presumptively under the laws of Oklahoma, having an address of 19405 Robert Clark Cir., Harrah, OK 73045, for registration of DENT PERFECT in connection with auto repair and maintenance in International Class 37 which was published March 2, 2004 (as reference to the T.A.R.R. web server will show); Jeffrey A. Jones, *dba* Dent Perfect (Opposer), an individual and citizen of the U.S., who resides in Springfield, Missouri and has a mailing address of 5973 Overlook Trail, Springfield, Missouri (MO) 65806, believes that he will be damaged by such registration, and hereby opposes the registration of Applicant's DENT PERFECT.

07/07/2004 TSMITH 00000003 78220810

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300.00 UP

The grounds for opposition are as follows:

1. Applicant applied on March 3, 2003, to register DENT PERFECT as a service mark for automobile repair and maintenance, simply on the basis of an intention to use the mark.

2. Opposer has been using DENT PERFECT as a service mark as well as likely a tradename and trademark in interstate commerce since at least January 1, 1994. The services being provided in connection with Opposer's DENT PERFECT service mark since that time include auto body repair, namely, paintless hail-damage repair. The service mark is being affixed by printing to brochures, folders of technical information, advertisements, as well displayed on web pages and on or with other like advertising and like promotional materials. Attached are EXHIBITS A through G which provide examples of and serve as evidence of Opposer's continuous and rightfully exclusive use of DENT PERFECT as a service mark in commerce and interstate commerce.

3. The domain name dentperfect.com has been registered since at least as early as January 1, 2000, and the website therefor has been built and online for e-commerce since at least as early as January 1, 2002.

4. Opposer has been doing business as DENT PERFECT since at least as early as January 1, 1994.

5. Opposer first used DENT PERFECT in commerce as a service mark since at least as early as same January 1, 1994; and in interstate commerce which Congress can regulate since at least as early as January 1, 1994.

6. Opposer is owner of U.S. Service Mark Application No. 76/517,896, having a filing date of May 29, 2003, for DENT PERFECT in connection with auto body repair, namely, paintless hail-damage repair, in International Class 37.

7. The status of Opposer's U.S. Service Mark Application No. 76/517,896, is suspended, prospectively refused in view of Applicant's U.S. Service Mark Application No. 78/220,810.

8. Inherently, and as the result of continuous and substantial use, and continuous and substantial advertising and promotion, Opposer's DENT PERFECT tradename, service mark and trademark have come to represent an invaluable symbol of the goodwill of Opposer, and are recognized by customers and the trade as identifying Opposer, or the services and/or goods which have a source, origin or sponsorship with Opposer, and as distinguishing such services and goods from the services and/or goods of others, or as distinguishing Opposer from others.

9. The DENT PERFECT service mark which Applicant intends to register is exactly the same as Opposer's DENT PERFECT tradename, service mark and trademark, in pronunciation, appearance and meaning. The services identified by Applicant in their application for registration of DENT PERFECT as a service mark are so substantially the same as Opposer's services that, on information and belief, this is likely to cause confusion over association with or sponsorship by or license under Opposer's enterprise.

10. Applicant's registration of DENT PERFECT as a service mark for the auto body repair services is likely to cause confusion or mistake as to the respective marks and

ownership thereof, and also as to the origin and sponsorship between the identity and services of the Applicant on the one hand, and the identity, services and goods of the Opposer on the other.

11. Opposer asserts that by reason of the sameness of the name and marks of Opposer with the mark chosen by applicant, and the substantial similarity of the services of the parties, that Opposer's customers (and prospective customers) will, on information and belief, likely be confused, mistaken or deceived, and thereby this shall immeasurably damage Opposer as a result of such likelihood of confusion, mistake or deception of purchasers, the trade, and the larger prospective-purchasing public.

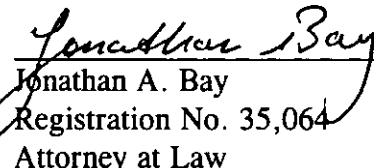
12. Opposer's use of its DENT PERFECT tradename, service mark and trademark in commerce which may be lawfully regulated by Congress, prior to the filing date of Applicant's intent-to-use U.S. service mark application and presumptively long prior to any use of the DENT PERFECT service mark by Applicant, provides Opposer with superior rights in its DENT PERFECT tradename, service mark and trademark.

**WHEREFORE**, Opposer requests that the registration of Applicant's Serial No. 78/220,810 of the DENT PERFECT service mark be denied, and that Opposer's opposition to registration of the trademark be sustained.

A duplicate copy of this Notice of Opposition and the fee, namely Three Hundred Dollars (\$300.00) is enclosed.

Legal Representative for Opposer,

DATE: 6-30-04

  
Jonathan A. Bay  
Registration No. 35,064  
Attorney at Law  
333 Park Central East, Suite 314  
Springfield, MO 65806  
(417) 873-9100

Docket No. 601-2

## EXHIBIT. A.

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PAGE 08



# **to the Rescue!**



- Lifetime Warranty
- 2 Day Repair Process on Most Cars



3915 Calumet Avenue (920) 652-0007



602 1st Ave. South  
(across from Valley Bank)  
Glasgow, MT  
406-228-9207

Dent Perfect technicians paintless hail repair process is truly the perfect option to painting. By using techniques developed in Mercedes Benz production factories, we can quite simply massage hail dents back to their original condition, much like you back your car out of the garage.

Because of the temporary nature of our business, we understand that some consumers are uneasy about choosing our service. That's why we have a "three step customer protection plan"

**1) Liability Insurance.**

We are fully insured through American Family Insurance. You can rest assured that your vehicle is fully protected during the entire repair process.

**2) Satisfaction Guaranteed.**

Dent Perfect will repair your vehicle to your complete satisfaction or you don't pay...it's as simple as that.

**3) Lifetime Warranty.**

Dent Perfect guarantees that the dents repaired by our technicians will no return for as long as the customer owns the vehicle.

## **Save Hundreds on Hail Damage Repair!**

We have opened 52 locations in 19 states since 1991. We have successfully repaired thousands of cars and saved consumers hundreds of thousands of dollars in repair cost. And all of this without a single warranty claim due to the re-appearance of a repaired hail dent.

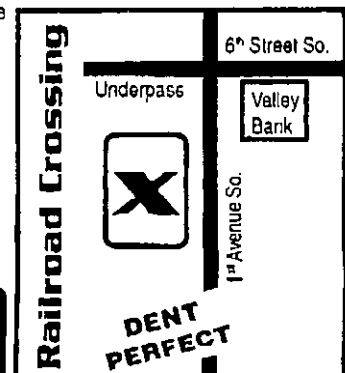




EXHIBIT. B.

# Front

## BUYER'S GUIDE

JULY 13, 1996 • VOL. 9 NO. 43

230 N. Main • Fremont, NE 68025 • For Delivery or Advertising Call: HomeFront: 402-721-1030 • FAX: 402-721-5276

**FREE RENTAL  
CAR**

**LIFETIME  
WARRANTY**

**SATISFACTION  
GUARANTEED**

**Hail Damage Savings**

Bring this coupon and

**SAVE \$100**

• On Jobs \$600 or More

• \$50 Off Jobs  
Under \$600

\*Not With Any  
Other Discounts

# DENT Perfect

The Perfect Option to Painting™

## WORKS MIRACLES ON HAIL DAMAGE

DENT PERFECT uses an exclusive paintless repair process that makes dents and dings disappear as if by magic.

ADVANTAGES:

- ▼ Eliminates paint, sanding & body fillers
- ▼ Eliminates paint mismatches
- ▼ Preserves the value of your automobile
- ▼ Saves time & money

We quickly & inexpensively restore your automobile to its showroom condition, enhancing its looks & value. And most important, without paint or bodywork!

1203 E. 23rd Street ▼ Fremont, NE 68025 ▼ (402) 721-0566

Located in rear of R.J.'s Auto Parts

EXHIBIT. C.

# Front BUYER'S GUIDE

JULY 20, 1996 • VOL. 9 NO. 44

230 N. Main • Fremont, NE 68025 • For Delivery or Advertising Call: HomeFront: 402-721-1030 • FAX: 402-721-5276



**The Perfect Option  
to Painting™**

## WORKS MIRACLES ON HAIL DAMAGE

DENT PERFECT uses an exclusive paintless repair process that makes dents and dings disappear as if by magic.

### ADVANTAGES:

- ▼ Eliminates paint, sanding & body fillers
- ▼ Eliminates paint mismatches
- ▼ Preserves the value of your automobile
- ▼ Saves time & money

We quickly & inexpensively restore your automobile to its showroom condition, enhancing its looks & value. And most important, without paint or bodywork!

1203 E. 23rd Street ▼ Fremont, NE 68025 ▼ (402) 721-0566

Located in rear of R.J.'s Auto Parts

**FREE RENTAL CAR ▼ LIFETIME WARRANTY ▼ SATISFACTION GUARANTEED**







The Perfect Option to Painting™

# SAVE HUNDREDS ON HAIL DAMAGE REPAIR!

DENT PERFECT uses an exclusive paintless repair process that makes dents and dings disappear as if by magic.

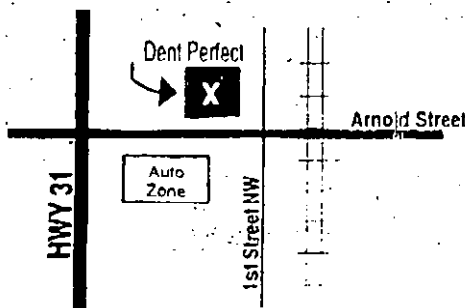
## ADVANTAGES

1. Eliminates paint, sanding and body fillers
2. Eliminates paint mismatches
3. Preserves the value of your automobile
4. Saves time and money

We quickly and inexpensively restore your automobile to its showroom condition, enhancing its looks and value.  
And Most Important, without Paint or Bodywork!

# 775-6500

•FREE ESTIMATES •SATISFACTION GUARANTEED



Located at 101 Arnold NW (formerly known as Cullman Window Tint)

EXHIBIT. E.

The Sentinel-Record, Monday, February 1, 1999 3A

# HAIL DAMAGE REPAIR

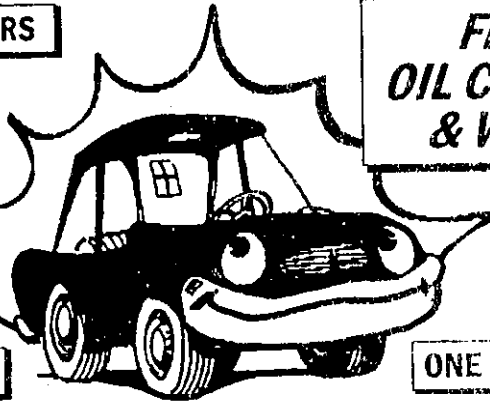
## Paintless Dent Removal

QUALITY REPAIRS

100%  
SATISFACTION  
GUARANTEED

FREE  
OIL CHANGE  
& WASH

FREE ESTIMATES



ONE DAY REPAIR

Insurance & Dealer Approved • All Work Guaranteed



525-2300  
MR. SPEEDY

888-436-4245  
CUSTOMER SERVICE



Serving the Hot Springs Area for Over 11 Years  
4000 Central Avenue • Hot Springs, Arkansas

## Here Today! Here Tomorrow!

*EXHIBIT. F.*

0000000 Save 3x8 8

**WE'RE WAITING TO HEAR FROM YOU!****~ COUPON ~**

Present this Coupon after receiving our written estimate and

**RECEIVE AN ADDITIONAL****\$100<sup>00</sup>**

Offer expires 9/31/00



**We have over 300 satisfied customers  
including Pietroske, Inc., Maritime Ford,  
West Town Auto, Terp Brothers, and your  
local neighbors and friends!**

**The Perfect Option to Painting™****SAVE HUNDREDS ON HAIL DAMAGE REPAIR!****DENT PERFECT** uses an exclusive paintless repair process that makes dents and dings disappear as if by magic.**ADVANTAGES**

1. Eliminates paint, sanding and body fillers
2. Eliminates paint mismatches
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4. Saves time and money

We quickly and inexpensively restore your automobile to it's showroom condition,  
enhancing its looks and value. And Most important, without Paint or Bodywork!

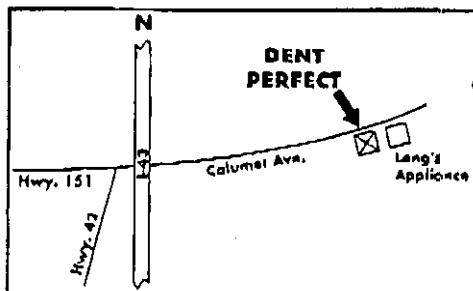
**DENT PERFECT****Local Disaster Center****3915 Calumet Avenue****Manitowoc, WI****OFFICE: (920) 652-0007****FAX: (920) 652-0008**

EXHIBIT. G.

PAGE 13

STAPLES

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# ATTENTION: HAIL REPAIR CUSTOMERS



The Perfect Option to Painting

## SAVE HUNDREDS ON HAIL DAMAGE REPAIR!

DENT PERFECT uses an exclusive paintless repair process that makes dents and dings disappear as if by magic.

### ADVANTAGES

1. Eliminates paint, sanding, and body fillers.
2. Eliminates paint mismatches.
3. Preserves the value of your automobile.
4. Saves time and money.

# \$100 OFF

\*Valid For Dates 4-25-01 to 5-12-01  
On Estimates Over \$600.00

We quickly and inexpensively restore your automobile to it's showroom condition, enhancing its looks and value. And most important, without paint and bodywork!

*Joe Taylor*

Ford • Chrysler • Plymouth • Dodge • Jeep  
**870-217-0377**

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ARLINGTON, VA 22202-3513

ON 6-30-04  
Jonathan A. Bay  
REGISTRATION NO. 35064  
DATE 6-30-04

TRANSMITTAL LETTER

Attn: Box TTAB Fee  
Asst. Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

ER380096723US

Madam:

Please find enclosed for filing:

- ☒ Notice of Opposition (in duplicate) and attached EXHIBITS A through G.
- ☒ Check in the amount of \$ 300.00 for payment of filing fee for Notice of Opposition.
- ☒ Other: Return Postcard.

Respectfully submitted,

DATE: 6-30-04

Jonathan A. Bay  
Jonathan A. Bay  
Registration No. 35,064  
Attorney at Law  
333 Park Central East, Suite 314  
Springfield, MO 65806  
(417) 873-9100

Docket No. 601-2



06-29-2004